IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 21343 of 2003

Between:

1 K.Subhashini W/o. Mohan Das
Gannavaram Depot.
2 R.Lalitha W/o. Ramakrishna
Gannavaram Depot.
3 K.Malleswari
Vidyadharapura, Depot.
4 S.Babu Rao
Vidyadharapura, Depot.

..... PETITIONERS

AND

1 The A.P.S.R.T.C., Rep. by its Managing Director,
Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C.,
Krishna Region, Vijayawada.
3 The Depot Manager, A.P.S.R.T.C.,
Gannavara, Depot, Krishna District.
4 The Depot Manager, A.P.S.R.T.C.,
Vidyadharapuram Depot, Vijayawada,
Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or an order or a direction more particularly one in nature of Writ of Mandamus, declaring the action of the respondents herein in transferring us to a far of place and beyond the level of seniority from Governorpet -1 Depot, Krishna region to W.G.Dist vide proceedings No.P3/255/(10)/2003 RM/KD Vijayaada dt 16-09-2003 as illegal contrary to regional seniority, contrary to the regulations of the Corporation and as such liable to be set aside in the interest of justice.

Counsel for the Petitioner: MR.S.M.SUBHAN

Counsel for the Respondents: MR.R.Manmadha Reddy, SC.

The Court made the following :

THE HONOURABLE SRI JUSTICE K.C.BHANU

WRIT PETITION NO.21343 OF 2003

ORDER:

This writ petition is filed seeking to declare the action of the respondents in transferring the petitioners to a far of place beyond the level of seniority from Governnorpet-I Depot of Krishna region to West Godavari district vide proceedings No.P3/255(10)/2003.RM/KD, Vijayawada, dated 16.9.2003 as arbitrary and illegal.

The case of the petitioners is that their services were regularized in the Krishna District in the year 2000 and they were working in R.3 and R.4 depots. According to them, each district is a region. The grievance of the petitioners is that as they are transferred to a far of place beyond the level of seniority, the action of the respondents is unjust and contrary to the regulations of the respondent Corporation.

On the other hand, respondents filed counter stating that in view of the excess conductors in the Krishna District, on review of the position, the Executive Director (VJA & VZM Zones) gave instructions to the Regional Manager, Krishna advising to transfer 120 junior most conductors from Krishna region to West Godavari region, accordingly transfers were effected. It is stated that as per Regulation 5(a) of A.P.S.R.T.C.Services Regulations, 1964 any employee is required to work anywhere in the Corporation, as such no rule is violated and therefore, it is prayed to dismiss the writ petition.

None appeared for the petitioner. The learned Standing Counsel appearing for the respondents contended that the petitioners were transferred from Krishna region to West Godavari under Regulation 5(a), duly maintaining their seniority in Krishna region. It was further contended that since the petitioners were found to be excess in the Krishna region the impugned orders were passed, as per the instructions of the Executive Director and therefore, the same cannot be challenged.

There cannot be any dispute that the transfer is not only an incidence of service but also one of the conditions of the service and the employee is liable to fulfill the service condition. Unless the transfer order is vitiated by mala fides or the same is by way of punishment, or contrary to rules, normally such transfer orders cannot be challenged. The only ground taken in the writ petition is that the writ petitioners were appointed in the Krishna region and that the Krishna region is a zone and they cannot be transferred from Krishna to West Godavari. The said contention cannot be accepted in view of the Regulation 5(a) of A.P.S.R.T.C. (Service) Regulations, 1964, which reads as follows:

> " A member of a service or class of a service may be required to serve any where and in any post borne on the cadre of such service or class in the Corporation."

It is specifically stated in the counter that even in the appointment order the term of their appointment is subject to the condition that they are liable for transfer to any unit of the Corporation. The same is not denied or disputed by the petitioners. Since the petitioners were found to be excess in the Krishna region, temporarily they have been deputed to work in West Godavari region. Therefore, such a deputation will not affect the service conditions of the writ petitioners. The respondent/corporation is bound to maintain their seniority in the Krishna Region. It is specifically stated in the counter that seniority of the petitioners is being maintained in the parent division. Since the petitioners are found to be excess in the Krishna region, which leads to loss to the Corporation, they were transferred and such transfer order, in the facts and circumstances of the case, does not suffer from any incurable infirmities or irregularities. Therefore, the writ petition is devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. Interim suspension ordered by this Court on 1.10.2003 shall stands vacated. No order as to costs.

K.C.BHANU,J

20th June, 2005.

Mdaa

Copy to:

1 The A.P.S.R.T.C., Rep. by its Managing Director,
Musheerabad, Hyderabad.
2 The Regional Manager, A.P.S.R.T.C.,
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Vidyadharapuram Depot, Vijayawada,
Krishna District.

5. Two C.D.copies.